

COASTAL CONSERVANCY

Staff Recommendation
March 17, 2011

**HAMILTON WETLANDS RESTORATION PROJECT
IMPLEMENTATION**

Project No 94-003
Project Manager: Tom Gandesbery

RECOMMENDED ACTION: Authorization to disburse up to \$4,000,000, which will be reimbursed by the Wildlife Conservation Board, and authorization to disburse up to \$2,400,000 of Conservancy funds, to the U.S. Army Corps of Engineers for implementation of the Hamilton Wetland Restoration Project, in Novato, Marin County.

LOCATION: Southeast Novato, adjacent to and between the Bel Marin Keys Unit V property to the north, and the Las Gallinas Valley Sanitary District Property to the south, along the western margin of San Pablo Bay, Marin County.

PROGRAM CATEGORY: Resource Enhancement, San Francisco Bay Area Conservancy

EXHIBITS

- Exhibit 1: [May 27, 2010 Staff Recommendation](#)
 - Exhibit 2: [Project Budget for Federal Fiscal Years 2011 and 2012](#)
 - Exhibit 3: [November 18, 2010 Letter from the U.S. Army Corps of Engineers to the State Coastal Conservancy](#)
 - Exhibit 4: [November 18, 2010 Letter to Senator Barbara Boxer from Jo-Ellen Darcy, Assistant Secretary of the Army \(Civil Works\)](#)
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Chapters 4.5 and 6 of Division 21 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed six million four hundred thousand dollars (\$6, 400,000) to the U.S. Army Corps of Engineers for implementation of the Hamilton Wetlands Restoration Project. Prior to the disbursement of funds for this project, the Conservancy and WCB shall enter into a memorandum of understanding authorizing \$4,000,000 in WCB funding for this project as an “approved project” under WCB Agreement WC-3032BT.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibit, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with the Project Selection Criteria and Guidelines last updated by the Conservancy on June 4, 2009.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 4.5 of Division 21 of the Public Resources Code, regarding restoration and enhancement of natural habitats in the San Francisco Bay Area and public access improvements to and around the Bay, and with Chapter 6 of Division 21, concerning the enhancement of coastal and bay resources.”

PROJECT SUMMARY:

Conservancy staff recommends the authorization of \$6,400,000 for the implementation of the Hamilton Wetlands Restoration Project (“Project”) by the U.S. Army Corps of Engineers (“Corps”) during Federal Fiscal Years (“FFY”) 2011 and 2012. Wildlife Conservation Board (“WCB”) will reimburse the Conservancy for \$4,000,000 of this amount, under an existing grant agreement between the Conservancy and WCB for projects that are recommended in the San Francisco Baylands Ecosystem Habitat Goals Report. This authorization will allow the Corps to complete the implementation of the Hamilton Army Airfield segment of the project (“Airfield”) and move into the monitoring and adaptive management phase.

On November 18, 2010, the Corps requested that the Conservancy provide \$1,400,000 as its remaining non-federal share of the costs of implementation of the Project for FFY 2011 (Exhibit 3). The Conservancy authorized \$2,000,000 on February 4, 2010 and \$2,750,000 on May 27, 2010 (Exhibit 1), which represented the Conservancy’s cost share to implement the Project during FFY 2010. Approximately \$2,000,000 of the \$4,750,000 authorized by the Conservancy has been carried over to fulfill a portion of FFY 2011’s cost share requirement. This leaves \$1,400,000 needed to fulfill cost share requirements for FFY 2011. An additional \$5,000,000 is needed to provide the cost share requirement for the estimated FFY 2012 federal appropriation and allow the Corps to complete implementation of the Airfield portion of the Project in FFY 2012.

Board authorization of the FFY 2011 and FFY 2012 cost-share for the Project at this time is critical to: 1) securing millions of dollars in federal funding for the Project, 2) ensuring beneficial reuse of sediments that will be dredged from San Francisco Bay, and 3) ensuring completion of restoration of the Hamilton Army Airfield. As the non-Federal sponsor of a congressionally authorized civil works project, the Conservancy must pay 25% of the cost to design and construct restoration features, and 50% of the cost to design and construct recreational features, as well as provide all of the lands, easements, rights of way, and relocations required to implement the Project (which count as part of the required cost share).

If the Conservancy does not contribute its share of costs to the Project, the Corps will not be able to access the full FFY 2011 appropriation. The Corps is currently using a carry-over of the Conservancy’s FFY 2010 cost share to match its federal funding; however, it is anticipated that

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these funds will be exhausted by the spring of 2011 at which point the Corps is not allowed to expend additional federal funds until the Conservancy can provide its non-federal match.

Funding the entire non-federal share for FFYs 2011 and 2012 will allow the Corps to complete work on major and critical elements of the Project (Exhibit 2). The Airfield has received about 5.9 million cubic yards of sediment since inception of the dredged material offloading system in 2006, which represents about 80% to 90% of the material needed to completely fill the Airfield. The majority of this dredged material came from the Port of Oakland and other ports in San Francisco Bay. It is now anticipated that the Airfield could be essentially brought to capacity at the end of this dredging season. The Corps plans to expend funds in FFY 2011 on final delivery of dredged material needed to raise the elevation of the site to allow restoration to wetlands, final grading of about 250 acres of the seasonal wetland and transition zones, planting of the seasonal wetland and transition zone with native plants, and the construction of a 2.5-mile Bay Trail segment which runs along the perimeter of the Airfield. The Corps has also developed a budget for FFY 2012 that includes final levee and vegetation work necessary to complete the restoration of the Airfield. It is anticipated that once this work is completed, the Corps will be in a position to breach the levee separating the Airfield from the San Pablo Bay, allowing tidal water to return and for natural processes to complete the wetland restoration work. Following the levee breach, the Corps will continue to conduct native plantings for several years, as well as monitoring and adaptive management activities for 13 years (from FFY 2013 to FFY 2025), but the major construction effort at the Airfield will have been completed. Staff will continue to work with the Corps to refine the budget for FFY 2011 and FFY 2012 in order to find efficiencies that will lead to a lower overall cost to complete the Project.

The recommended funding will most likely *not* be used on the North Antenna Field (also referred to as the State Lands Commission parcel) or the Bel Marin Keys Unit V property expansion of the Project due to an ongoing disagreement between the Conservancy and Corps over the Corps' interpretation of the Water Resources Development Act of 2007. As was discussed in a previous staff recommendation (Exhibit 1), the Conservancy has continued to advocate for a reversal of Corps' decision to raise the cost-share from 25 to 35 percent of total project cost related to the Bel Marin Keys addition. The North Antenna Field portion of the project is subject to the 25 percent cost share and is authorized to be restored under the current Project Cooperation Agreement, but it is hydrologically connected to the Bel Marin Keys Unit V (BMKV) property and significant design changes would be needed to restore it without concurrently restoring BMKV. Since staff last discussed this issue with the Board, we have received a copy of a letter sent from the Assistant Secretary of the Army for Civil Works Jo-Ellen Darcy to Senators Barbara Boxer and Dianne Feinstein which reiterated the Corps' position that the cost share for BMKV is now 35% (Exhibit 4). Given the final decision made by Assistant Secretary Darcy, the only other recourse for the Conservancy is to request a legislative remedy, normally carried out in the Water Resources Development Act ("WRDA"), which is the same legislative mechanism that authorized the project. However WRDA bills have been passed infrequently over the past decade. Thus, restoration of Bel Marin Keys Unit V and the North Antenna Field remain on hold.

Site Description: See Exhibit 1.

Project History: See Exhibit 1.

PROJECT FINANCING

Expenditures to Date

Conservancy (previous authorizations)	\$18,391,622
Corps	<u>55,108,276</u>
	73,499,898

FFY 2011: Construction

Conservancy (previous authorization)	1,922,500
Conservancy (this authorization)	1,400,000
Corps	<u>9,967,500</u>
	13,290,000

FFY 2012: Completion of Construction

Conservancy (this authorization)	5,000,000
Corps	<u>11,870,000</u>
	16,870,000

FFY 2013 – 2025: Planting, Monitoring, and Adaptive Management

Conservancy (future authorizations)	885,000
Corps	<u>2,655,000</u>
	3,540,000

Total Estimated Project Costs

Conservancy	27,146,435
Corps	<u>81,504,876</u>
	\$119,910,327

It is anticipated that \$2,400,000 of the proposed Conservancy contribution is expected to be provided by an appropriation to the San Francisco Bay Area Conservancy Program of the “Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006” (Proposition 84). Public Resources Code section 75001, et seq. This funding source may be used for projects that protect and restore the natural habitat values of coastal waters and lands and are consistent with Chapter 4.5 (the San Francisco Bay Area Program) of the Conservancy’s enabling legislation. Public Resources Code Section 75060(c). Thus, these funds are appropriate for the Hamilton project, which is restoring coastal wetland habitat and is consistent with Chapter 4.5 of the Conservancy’s enabling legislation (as described in Exhibit 1). . In addition, the use of Proposition 84 funds for this project is consistent with the Proposition 84 requirement to give priority to restoration projects that meet certain criteria because it will make use of a substantial non-state funding match that will be used to implement the project, i.e., Corps’s budgeted funding and will create new, and enhance existing, wildlife corridors between protected habitats at China Camp (owned and managed by the California Department of Parks and Recreation) to the south, San Pablo Bay National Wildlife Refuge (owned and managed by the U.S. Fish and Wildlife Service) to the northeast, and Petaluma River Wildlife Management Area (owned and managed by California Department of Fish and Game) to the north. See Public Resources Code section 75071.

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About \$4,000,000 of the proposed Conservancy contribution is expected to come from funding provided to the Conservancy through an interagency agreement with the Wildlife Conservation Board (“WCB”). These WCB funds are derived from an appropriation from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (“Proposition 50”), pursuant to Section 79572(c) of the Water Code. These funds may be used generally for acquisition, protection and restoration of coastal wetlands and adjacent upland areas, and specifically for projects in the San Francisco Bay Area that accomplish the objectives of the Conservancy as specified in Section 31162 of the Public Resources Code.

Under the interagency agreement with WCB, the Conservancy may use these funds for wetland habitat restoration projects within the nine-county San Francisco Bay Area that implement the restoration goals of the *San Francisco Baylands Ecosystem Habitat Goals Report* (“*Goals Report*”) and that meet the priorities of the Conservancy as described in Section 31162 of the Public Resources Code. This project is consistent with the *Goals Report*, which recommends restoring a wide, continuous band tidal marsh along the Marin bayfront between Black Point and Gallinas Creek. This project is listed as a “high priority project” under the interagency agreement between WCB and the Conservancy. The Conservancy will also enter in a Memorandum of Understanding with WCB regarding implementation of this project, pursuant to the terms of the interagency agreement.

Expenditures to Date

As of December 19, 2010, the Corps had expended about \$73.5 million of federal and state funding on the project. The main expenses have been the site preparation, the incremental cost to offload dredged material, contouring and final grading of the fill, design work, construction management, and project staffing.

CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:

See Exhibit 1

CONSISTENCY WITH CONSERVANCY’S 2007 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

See Exhibit 1

CONSISTENCY WITH CONSERVANCY’S PROJECT SELECTION CRITERIA & GUIDELINES:

See Exhibit 1

CONSISTENCY WITH SAN FRANCISCO BAY PLAN:

See Exhibit 1

COMPLIANCE WITH CEQA:

On June 25, 2001, the Conservancy certified the Hamilton Wetland Restoration Plan Volume II EIR/EIS and approved the Feasibility Report. On June 16, 2005, the Conservancy certified the Final Supplemental Environmental Impact Report / Environmental Impact Statement for the Bel Marin Keys Unit V Expansion of the Hamilton Wetland Restoration Project and approved

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modifications to the Hamilton Wetland Restoration Plan to incorporate BMKV. The expenditure of \$6.4 million for the Project allows construction of the approved Hamilton Wetland Restoration Plan to be completed and satisfies the Conservancy's obligations under the existing PCA.